

of the benefit account fund. The unfunded liability contributions shall continue until there remains no unfunded liability.

(5) Any employer admitted to the retirement system after April 1, 1949, shall make an additional contribution at a rate equal to not less than twenty-five percent of the sum of the normal contribution rate and the unfunded liability contribution rate until such time as the sum of such additional contributions equals the amount of contributions which such employer would have been required to contribute between April 1, 1949, and the date of such employer's admission to the retirement system: *Provided*, All additional contributions hereunder and under the provisions of RCW 41.40.160 (2) must be completed within ten years from the date of the employer's admission.

Additional contribution for employers admitted after March, 1949.

Passed the Senate March 13, 1957.

Passed the House March 13, 1957.

Approved by the Governor March 23, 1957.

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## CHAPTER 232.

[ S. B. 160. ]

### AIR POLLUTION CONTROL DISTRICTS.

AN ACT relating to the control and prevention of air pollution; authorizing the creation of air pollution control districts and prescribing powers and duties for certain officers and individuals.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. It is the public policy of the state to maintain the highest practical standards of purity of the air in order to promote public enjoyment of the state's natural scenic and outdoor recreational resources, to foster and develop public health, and to facilitate the growth of desirable natural and

Declaration of policy.

agricultural plant and animal life, all consistent with maximum employment and full industrial development of the state. It is necessary to the health, safety, and welfare of the people of the state to provide means for control and prevention of air pollution.

Air pollution control districts. Declaration of purpose.

SEC. 2. Air pollution is affected by the weather, topography, population, transportation, and agricultural and industrial development, which factors vary greatly from area to area, and cause problems of control and prevention to be primarily regional in nature. This chapter is enacted to provide for creation of separate districts to control and prevent air pollution in each area where it may exist, or is likely to occur.

Definitions.

SEC. 3. As used in this title:

"Air pollution."

(a) "Air pollution" is the presence in the outdoor atmosphere of substances put there by man in concentrations sufficient to cause an unreasonable interference with the comfort, safety, or health of man; or the reasonable use and enjoyment of his property.

"Person."

(b) "Person" means and includes an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

"District."

(c) "District" as used in this chapter means any Air Pollution Control District comprised of two or more cities, towns, and, or, counties which have entered into agreements for the control of air pollution.

"Board."

(d) "Board" means the Board of Directors of a district.

"Control officer."

(e) "Control Officer" means the air pollution control officer of any city, town, county, or district.

SEC. 4. Except where specified in a variance

permit, as provided in Sec. 17 [Sec. 18], it shall be unlawful for any person knowingly to cause air pollution or knowingly permit it to be caused in violation of this act, or of any ordinance, resolution, rule or regulation validly promulgated hereunder.

Air pollution  
unlawful—  
Exception.

SEC. 5. Any city, town or county is authorized to conduct tests and surveys to determine the degree of purity of the air within its jurisdiction. Such tests and surveys may be made in cooperation with the director of health. The director of health may suggest, advise, recommend, and cooperate with the governing body of any city, town or county as to the need and procedure for such tests and surveys. The director of health may then make recommendations as to appropriate measures, including appropriate areas and territories, for the control and prevention of air pollution. If such tests and surveys indicate to the governing body of such city, town, or county, that air pollution exists or is likely to occur within its jurisdiction, the governing body may conduct a public hearing in accordance with RCW 42.32, after ten day notice for the purpose of considering the results of such tests and surveys and appropriate measures, if any, to be adopted to control and prevent air pollution, together with any pertinent evidence, information, or facts which may be presented by interested persons or other members of the public. Upon the conclusion of the hearing, if the governing body finds it necessary for the protection of the public health and welfare, it shall so declare by resolution, and thereafter may adopt and enforce ordinances or resolutions for the control and prevention of air pollution within the jurisdiction of such city, town or county, as hereinafter provided.

Air purity  
tests author-  
ized in cities,  
towns and  
counties—  
Procedure—  
Director of  
health to  
cooperate.

SEC. 6. Any city, town, or county may, pursuant to ordinance or resolution adopted after hearing as provided in Sec. 5, join with any other city,

Formation of  
district  
authorized.

town, county, or combination thereof in the formation of a district for the control of air pollution.

Air pollution control districts. Ordinance, resolution forming district. Contents—Filing—Effective date of operation.

SEC. 7. The ordinances and resolutions of cities, towns and counties forming a district shall specify the name of the district and participating political bodies; the district's principal place of business; the territory included within it; the period of time for which it shall operate; and the effective date upon which such district shall begin to transact business and exercise its powers. In addition, such ordinance or resolution may specify the amount of money to be contributed annually by each political subdivision, or a method of dividing expenses of the air pollution control program. Upon the adoption of an ordinance or resolution by cities, towns or counties calling for the formation of a district, the governing body of each such city, town or county shall cause a certified copy of each such ordinance or resolution to be filed in the office of the secretary of state of the state of Washington. From and after the date of filing with the secretary of state of a certified copy of each such ordinance or resolution, or the date specified in such ordinances or resolutions, whichever is later, the district may begin to function and may exercise its powers within such district.

Powers and duties of district, county commissioners, county and district treasurers—Tax levies.

SEC. 8. A district shall be deemed a political corporate body; have right to perpetual succession; adopt and use a seal; may sue and be sued in the name of the district; may receive, account for, and disburse funds, employ personnel, and acquire or dispose of any interest in real or personal property within or without the district in the furtherance of its purposes; and may prepare a budget of financial requirements, certify the same and deliver it to the board of county commissioners in ample time for such board to levy district taxes. At the time of making general tax levies in each year, the board of county commissioners shall levy taxes required for

district purposes against the real and personal property in the district in accordance with the equalized valuation thereof for general tax purposes, and as a part of said general taxes. Such levies shall be part of the general tax roll and be collected as a part of general taxes against the property in the district. The treasurers of the several counties within the district shall pay into the appropriate district treasury all funds held by them to the credit of the district. The district treasury shall be in the custody of the county treasurer of a county in the district designated by the board and such treasurer shall be the district treasurer.

SEC. 9. A city, town, county or district may levy a tax on all taxable property in accordance with the development of a comprehensive plan and program prescribed in Sec. 14 (d) and in an amount and for a period as may be authorized when a proposition therefor receives an affirmative vote of three-fifths of those voting at any general or special election therefor; provided that at such election the number of persons voting shall constitute not less than forty percent of the voters in said city, town, county or district who voted at the last preceding general state election.

Tax levy  
authorized—  
Vote.

SEC. 10. The governing body of each district shall be known as the board of directors and shall be comprised of an appointee of the city selection committee of each county as hereinafter provided and one county commissioner from each county to be designated by the board of county commissioners of each county included in a district. In the event a district is formed from a combination of cities or towns only, the members of the board shall be composed of one appointee of each town or city included in such district. If the board otherwise would consist of an even number, the members selected as above provided shall agree upon and elect an additional

Board of  
directors of  
district.  
Composition  
—Terms.

Air pollution control districts.

member who shall be either a member of the governing body of one of the towns, cities or counties comprising the district, or a private citizen residing in the district. All board members shall hold office at the pleasure of the appointing body.

City selection committees. Membership—Quorum.

SEC. 11. There shall be a separate and distinct city selection committee for each county included within a district. The membership of such committee shall consist of the mayor of each city and town within such county. A majority of the members of each city selection committee shall constitute a quorum.

Meetings, notice—Recording officer.

SEC. 12. The city selection committee of each county which is included within a district shall meet within one month after the creation of such district for the purpose of making its initial appointment to the board of such district and thereafter whenever necessary for the purpose of making succeeding appointments. All meetings shall be held upon at least two weeks written notice given by the county auditor to each member of the city selection committee of each county and he shall give such notice upon request of any member of such committee. A similar notice shall be given to the general public by a publication of such notice in a newspaper of general circulation in such district. The county auditor shall act as recording officer, maintain its records and give appropriate notice of its proceedings and actions.

Board of directors. Powers, quorum, officers, compensation.

SEC. 13. The board shall exercise all powers of the district except as otherwise provided. A majority of the board shall constitute a quorum for the transaction of business and may act for the board. The board shall elect from its members a chairman and such other officers as may be necessary. Each member of the board shall receive from the district twenty-five dollars per day compensation (but not to exceed one thousand dollars per year) for each full day spent in the performance of his duties under

this chapter, plus the actual and necessary expenses incurred by him in such performance. The board may appoint an executive secretary, a control officer, and any other personnel, and shall determine their salaries, and pay same, together with any other proper indebtedness, from district funds.

SEC. 14. Any city, town, county or district may for the purpose of controlling and preventing air pollution:

Powers of city, town, county, district in controlling, preventing air pollution.

(a) Advise, consult, cooperate and contract with other agencies and educational institutions of the state, political subdivisions, industries, other states, the federal government, or other affected groups and individuals.

(b) Encourage and conduct studies, investigations and research relating to air pollution, its causes, control and prevention.

(c) Receive monies from any source and use and disburse such funds for the study, dissemination of educational information, and control and prevention of air pollution.

(d) Develop a comprehensive plan and program for the prevention and control of all new and existing sources of air pollution within its jurisdiction.

SEC. 15. The ordinances of a city or town, or the resolutions of a county, referred to in Sec. 5, or the rules and regulations of a district, adopted after consideration at a public hearing in accordance with RCW 42.32 of which there has been ten days notice, may, within the provisions and general standards hereof, specify the particular properties, types, names, or rates of discharge, of solids, liquids or gases, or combinations thereof, and the locations, circumstances, conditions or times that their discharge into the air will cause air pollution or make it likely to occur.

Permissive contents of ordinances, resolutions, rules.

In so determining what causes air pollution or will make it likely to occur, the governing body of

Air pollution control districts. Considerations in determining causes of air pollution.

each such city, town, county, or district shall take into consideration all of the facts and circumstances bearing upon the reasonableness of the activity involved and the regulations proposed to control it, including:

(a) The character and degree of injury to, or interference with, comfort, safety, health, or the reasonable use and enjoyment of property which is caused or threatened to be caused;

(b) The social and economic value of the activity involved;

(c) The suitability or unsuitability of such activity to the area in which it is located; and

(d) The practicability, both scientific and economic, of reducing or eliminating the discharge resulting from such activity.

Enforcement of ordinances, resolutions, rules.

SEC. 16. Ordinances of cities or towns pertaining to control and prevention of air pollution shall be enforced in the same manner as other similar ordinances. Resolutions of a county and valid rules and regulations of a district pertaining to the control or prevention of air pollution shall have within the jurisdiction of the county or district the force and effect of a state statute and any violation of either, not permitted by an existing variance order, may be enjoined in a civil action brought in the name of the state of Washington by the prosecuting attorney of the county in which the violation occurred.

Control officer.

SEC. 17. Any city, town, county, or district which has adopted an ordinance, resolution, or valid rules and regulations as provided herein for the control and prevention of air pollution may appoint a control officer, who shall observe and enforce the provisions of this chapter and all orders, ordinances, resolutions, or rules and regulations of such city, town, county or district pertaining to the control and prevention of air pollution.

SEC. 18. The governing body of a city, town, or county, or the board of a district, on its own motion may, or upon petition of an interested person shall hold a hearing to determine to what extent, if any, and under what conditions a variance from the requirements established herein, or by any ordinance, resolution, rules and regulations, or order of a city or town, county, or district is necessary and will be permitted. Ten days notice of the time and place of the hearing shall be given to the petitioner and to the control officer, if any. If the governing body or board finds that because of conditions beyond control, compliance with requirements established herein or the body's or board's resolutions, rules and regulations or orders would result in an arbitrary and unreasonable taking of property, or in the practical closing or elimination of any lawful business, occupation, or activity, in either case without sufficient corresponding benefit or advantage to the public in the control or prevention of air pollution, it shall prescribe other and different requirements applicable to plants and equipment operated by named classes of industries or persons, or separate persons.

Variations.  
When  
permitted.

SEC. 19. In determining under what conditions and to what extent a variance is necessary and will be permitted, the body or court hearing the petition shall exercise a wide discretion in weighing the equities involved and the advantages and disadvantages to the residents of the area and to any lawful business, occupation or activity involved resulting from requiring compliance with the specified requirements or resulting from granting a variance. In the event of a change in conditions, resulting in a substantial change in the equities involved and in the advantages and disadvantages existing at the time of granting a variance, the governing body may revoke or modify the order permitting

Balancing  
equities—  
Revocation,  
modification.

the variance by written order after a public hearing held upon thirty days notice to the persons or classes affected.

Air pollution control districts. Control officer's right of entry— Investigation results confidential.

SEC. 20. For the purpose of investigating conditions relating to air pollution, a control officer or his duly authorized representatives, shall have the power to enter at reasonable times upon any private or public property, excepting private dwellings housing four families or less. The result of any investigation shall be confidential and shall not be disclosed without the written permission of affected parties.

Violations of provisions controlling air pollution— Notice—Order to remedy.

SEC. 21. Whenever, in the opinion of a control officer, a person is violating in his jurisdiction any provision of this chapter or any valid ordinance, resolution, rule or regulation relating to the control or prevention of air pollution, he shall notify such person of his determination by registered mail. Within fifteen days from the receipt of this notice, the person shall file with the control officer a full report stating what steps have been and are being taken to control or prevent the alleged air pollution. The control officer may then issue an order setting forth the particulars wherein such person in his opinion is failing to comply with such ordinance, resolution, rule or regulation, and ordering such person to remedy such failure within a stated time. Said order shall be submitted to the person affected by registered mail.

Hearing on and appeal from control officer's order.

SEC. 22. The governing body of any city, town or county or the board shall grant a hearing to any person who feels aggrieved by any order issued by the control officer upon petition filed within fifteen days from the receipt thereof. At such hearing the petitioner may appear, present witnesses, and submit evidence. Following the hearing the governing body or board shall enter its order affirming, reversing or modifying the order of the control officer. Unless appeal is taken from such order of the governing

body or board, it shall be final. Such order shall be subject to review and trial de novo as a cause in equity, upon petition filed within fifteen days after the issuance of the order in the superior court of the county in which the violation is alleged to have occurred or be likely to occur. Any order shall be stayed pending final determination of any appeal taken in accordance with the provisions herein, unless after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

SEC. 23. The rules and regulations hereafter adopted by a district under the provisions of this chapter shall supersede the existing rules, regulations, resolutions and ordinances of any of the component bodies forming said district in all matters relating to the control and enforcement of air pollution as contemplated by this act; *Provided, however,* That nothing herein shall be construed to supersede any local county, or city ordinance or resolution, or any provision of the statutory or common law pertaining to nuisance; nor to affect any aspect of employer-employee relationship, including without limitation, statutes, rules or regulations governing industrial health and safety standards.

District rules  
and regulations  
supersede  
local—  
Exceptions.

Proviso.

SEC. 24. The governing body of any city, town or county appointing a control officer, or the board of any district, shall appoint an air pollution control advisory council to advise and consult with such body or board, and the control officer in effectuating the purposes of this chapter. The council shall consist of five members who are residents of the city, town, county or district and who are preferably skilled and experienced in the field of air pollution, two of whom shall serve as representatives of industry. The mayor of such city, or town, the chairman of the board of county commissioners of any such county, or the

Air pollution  
control advis-  
ory council.

Air pollution control districts. Advisory council.

chairman of the board of any such district, as the case may be, shall serve as ex officio member of the council and be its chairman. Council members shall serve without compensation but may be allowed actual expenses incurred in the discharge of their duties.

Exemptions from chapter.

SEC. 25. This act does not apply to smoke from fires set by or permitted by any public officer if such fire is set or permission given in the performance of the official duty of such officer, for the purpose of weed abatement, the prevention of a fire hazard, or the instruction of public employees in the methods of fighting fires which is, in the opinion of such officer, necessary, or from fires set pursuant to permit on property used for industrial purposes for the purpose of instruction of employees in methods of fighting fire.

This act does not apply to smoke from agricultural fires set by, or permitted by, the county agricultural agent of any county, if such fire is set or permission given in the performance of the official duty of such county agricultural agent for the purpose of disease prevention; or to such fires which are set in the course of any agricultural or forest harvest operation.

Dissolution of district.

SEC. 26. A district may be dissolved prior to the term provided in the original or subsequent agreement by the participating cities, towns and counties upon the adoption by the board, following a hearing held upon ten days notice, to said cities, towns, and counties, of a resolution of the board for dissolution and the approval by the governing body of each city or town and the Board of County Commissioners of each county comprising the district. In such event, the board shall proceed to wind up the affairs of the district and pay all indebtedness thereof. Any surplus of funds shall be paid over to the cities, towns or counties comprising the district in proportion to their last contribution. Upon the completion of the

process of closing the affairs of the district, the board shall by resolution entered in its minutes declare the district dissolved and a certified copy of such resolution shall be filed with the secretary of state and the district thereupon be deemed dissolved.

SEC. 27. If any section, subsection or clause of this act shall be adjudged unconstitutional, such adjudication shall not affect the validity of the act as a whole or of any section, subsection, sentence or clause hereof not adjudged unconstitutional. Severability.

Passed the Senate March 13, 1957.

Passed the House March 11, 1957.

Approved by the Governor March 23, 1957.

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## CHAPTER 233.

[ S. B. 255. ]

### SANITARY CONTROL OF SHELLFISH.

AN ACT pertaining to the sanitary control of shellfish; and making an appropriation.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. There is hereby appropriated from the general fund to the state department of health, the sum of forty thousand dollars, or so much thereof as may be necessary for the purpose of establishing, operating and conducting a research and investigation laboratory to study the sanitary bacteriology of oysters and clams in the state of Washington, to the end that adequate sanitary standards may be established and maintained for such shellfish used for human consumption.

Appropriation  
to department  
of health.

Passed the Senate March 9, 1957.

Passed the House March 13, 1957. ·

Approved by the Governor March 23, 1957.